Court No. 2

Writ Petition No. 1684 of 2001 (M/S)
Old No. 4698 of 1999

Rajesh Verma	…….	Petitioner
	Vs.	
Union of U.P. and others	…….	Respondents
	……	

Hon. P.C. Verma, A.C.J.
Hon. Irshad Hussain, J.

This writ petition has been filed by the petitioner challenging the vires of Rule 8(1)(b) of the U.P. Subordinate Education(Trained Graduates Grade)Services Rules, 1983. By this amending rule, the essential qualifications under sub rule 1(b) of Rule 8 for the post of Assistant Master/Assistant Mistress,General(History Geography, Civics, Economics) have been amended as follows:

(i) Bachelor's Degree with at least any two of the subjects out of History, Geography, Political Science and Economics from the University established by law in India.

(ii) L.T. Diploma of a Training College or a Degree or Diploma in Education from a University established by law in India.

The challenge of vires is confined to amended Rule (b) of sub rule 1 of Rule 8.

Learned counsel for the petitioner contended that the petitioners right to be considered have been affected as it operates retrospectively. According to the learned counsel fro the petitioner, he took admission in graduation in year 1990 with the subjects viz. Political Science, Sociology and Psychology.

Learned counsel for the petitioner submitted that when he took admission, the eligibility for appointment as Assistant Teacher was that a candidate must possess a degree of any of the subjects for which the post is advertised and he should be trained for teaching. Who will be trained teacher, is prescribed in the old Rule 8 itself. Now in the amended Rule since the petitioner did not offer two subjects out of the history, geography, civics and economics in the graduation, therefore, he is not eligible for appointment as a teacher for teaching any one of these subjects as per the amended rule the eligibility criteria is that a candidate

must have degree in atleast two subjects out of four and he should be trained person.

Learned counsel for the petitioner further contended that had this rule been not amended, he would have been eligible after passing graduation in 1983. Therefore, the amended rule operates retrospectively. The argument of the learned counsel for the petitioner is misconceived for the reason that the rule was notified and came into force on 6.11.1992, while the petitioner completed his graduation in August, 1993. Therefore, he became eligible for appointment of Assistant Teacher in 1993. As such, the argument of the learned counsel for the petitioner that his right to be considered accrued when he took admission in graduation is misconceived. A candidate becomes eligible only when he completes his graduation. Even otherwise, the petitioner eligible to be appointed under sub rule (1)(a) of Rule 8. He can be appointed under sub rule (1)(a) of Rule 8 to teach the subjects in which he is graduate. Therefore, the right of the petitioner to be considered is not affected in any manner.

No other point is pressed before me.

The petition is dismissed accordingly.

(P.C. Verma, A.C.J.) **(Irshad Hussain, J.)**

Dt. 8.4.2003

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